

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA	*	CASE NO. 3:18 CR 167
Plaintiff	*	Hon. Walter H. Rice
vs.	*	
MARIO ALBERTO ARZATE	*	<b><u>MOTION FOR NOTICE OF</u></b>
GUTIERREZ, et al.		<b><u>GOVERNMENT'S INTENTION</u></b>
Defendants	*	<b><u>TO USE EVIDENCE</u></b>

Mario Alberto Arzate Gutierrez, aka Gustavo Hernandez, aka Mario, the Defendant herein through counsel, moves the Court under favor of Rule 12(d)(2), Federal Rules of Criminal Procedure and Rule 404(b), Federal Rules of Evidence, to give and furnish the Defendant adequate pretrial notice of its intention to use certain evidence. Specifically, the request is being made for:

(a) All evidence of similar crimes, wrongs, or acts, allegedly committed by any of the defendants, upon which the government intends to rely to prove motive, scheme, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, including all documents relating to any such alleged "similar acts."

and


(b) Any other evidence, physical or otherwise, which the defendant would be entitled to discover, either under Rule 16 or would be entitled to knowledge of as exculpatory.

The Law Office of  
**JEFFREY D.**  
**SLYMAN, INC.**  
*Attorney at Law*

211 Kenbrook Drive  
Suite #5  
Vandalia, OH 45377  
(937) 454-5544  
slymanlaw@gmail.com

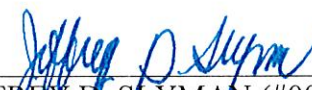
Such formal Notice, as is hereby being requested, should contain an itemized list of any and all property, evidence or purported similar acts. This should be speedily done to the end that the defense can make any Motions required to ensure that the Defendant receive a fair trial. These include possible Motions for Protective Orders, in Limine, for Suppression and/or for the production of witnesses, wither by Court or by subpoena. Also, additional Motions for Discovery and Particulars may very well be necessary.

Given the fact that the current restrictions imposed on the Defendant's ability to investigate the charges, particularly since he is being detained without bond, and speaks very little English, it is paramount to the Defendant receiving a fair trial that the within request be sustained and the Government respond as expeditiously as possible.

  
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JEFFREY D. SLYMAN (#0010098)  
211 Kenbrook Drive  
Suite #5  
Vandalia, OH 45377  
(937) 454-5544  
Attorney for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion was served on Brent G. Tabacchi, United States Attorney's Office, 200 W. Second St., Room 602, Dayton, Ohio, 45402, and all counsel of record by electronic filing this 3<sup>rd</sup> day of December, 2018.

  
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JEFFREY D. SLYMAN (#0010098)  
Attorney for Defendant

The Law Office of  
**JEFFREY D.  
SLYMAN, INC.**  
*Attorney at Law*

211 Kenbrook Drive  
Suite #5  
Vandalia, OH 45377  
(937) 454-5544  
slymanlaw@gmail.com